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**RECOMMENDATION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 04/2013**

of 25 March 2013

**ON THE NETWORK CODE FOR REQUIREMENTS FOR GRID
CONNECTION APPLICABLE TO ALL GENERATORS**

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Articles 6(4) and 17(3) thereof;

HAVING REGARD to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003², and, in particular, Article 6(9) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 20 March 2013, delivered pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

1) On 13 July 2012, ENTSO-E submitted to the Agency the Network Code for Requirements for Grid Connection Applicable to all Generators (the 'Network Code'), accompanied by the supporting documents:

- Network Code "Requirements for Generators" in view of the future European electricity system and the Third Package network codes;
- Requirements in the context of current practices;
- Justification outlines;
- Frequently asked questions;
- Evaluation of comments;
- 3rd User Group meeting on "Network Code for Requirements for Grid Connection applicable to all Generators" (NC RfG), Final Minutes.

2) On 13 October 2012, the Agency provided its opinion on the Network Code³ (the 'Opinion'). The Opinion acknowledged the intention of the Network Code to help

¹ OJ L 211, 14.8.2009, p.1.

² OJ L 211, 14.8.2009, p. 15.

³ Opinion No. 08/2012 of 13 October 2012 on ENTSO-E's Network Code for Requirements for Grid Connection Applicable to All Generators,

facilitate achieving the targets of the European Union on renewable energy sources and distributed generation penetration, as well as market integration, while ensuring security of supply. The Opinion recognised however that there was room for improvement in some specific areas of the Network Code in order to bring it in line with the Framework Guidelines on Electricity Grid Connections⁴ (the ‘Framework Guidelines’) of 20 July 2011:

1. Significance test to identify “significant grid users”;
 2. Justification of the significant deviations from existing standards and requirements;
 3. National scrutiny of the Network Code’s requirements to be implemented at the national level;
 4. Recovery of costs incurred by TSOs and DSOs.
- 3) In this Opinion, the Agency asserted that the specific concerns expressed in the Opinion could be addressed within a few months without reopening the overall structure of the Network Code.
- 4) On 8 March 2013, ENTSO-E resubmitted the Network Code to the Agency. The Agency appreciates the efforts of ENTSO-E to engage stakeholders in the amendment process and recognises that the amendments made improve the Network Code and address the concerns raised by the Agency in its Opinion,

HEREBY RECOMMENDS:

The adoption of the amended Network Code by the European Commission, subject to amendments to the significance test to identify “significant grid users”.

The Agency recognises that transitional arrangements clearly improve the significance test for emerging technologies. The eligibility criterion of “commercially viable” in Article 57(2) of the amended Network Code, however, is somewhat unclear. It may be hostage to interpretation which could be a barrier for emerging technologies and could potentially hamper their classification as emerging technology under Articles 59 and 60 of the amended Network Code. This criterion should be redrafted for clarity to allow appropriate emerging technologies to be classified as such, possibly by replacing the criterion of “commercially viable” with “commercially available” and providing further guidance on the application of the criterion. Furthermore, with regard to Article 61 of the amended Network Code, on the revocation of classification as an emerging technology, the text should be amended to *‘the Relevant Network Operator shall submit on a quarterly basis to the competent National Regulatory Authority the cumulative Maximum Capacity of Power Generating Modules classified as an emerging technology, as identified in individual Installation Documents,*

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Opinions/Opinions/ACER%20Opinion%2008-2012.pdf

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http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Framework%20Guidelines/FG%20on%20Electricity%20Grid%20Connections.pdf

pursuant to Article 25 of this Network Code, directly connected to their network, rather than placing this obligation on the manufacturer.


In addition, the European Commission, when adopting the Network Code, may wish to take into account also the following considerations regarding national scrutiny of the requirements to be implemented at the national level, which in the Agency's opinion do not affect the compliance of the Network Code with the Framework Guidelines, but would still justify a revision of the concerned provisions. The drafting proposed in Article 4(5) and the corresponding Recitals (4) and (5) of the amended Network Code seems questionable to the Agency. The recitals do not seem to indicate precisely enough whether they refer only to the situations existing at the time of entry into force of the Network Code or also include future developments in other countries. This should be clarified. Furthermore, the Agency believes that the European Commission should pay particular attention to Article 4(5), second sentence, regarding its appropriateness and clarity. Finally, the first sentence of Article 4(5) of the amended Network Code does not add any value because it merely states the obvious, i.e. that the allocation of tasks between the Relevant Network Operators is to be in line with the Network Code.

This Recommendation is addressed to the European Commission.

The amended Network Code, the accompanying letter and the supporting documents received from ENTSO-E are attached to this Recommendation for information purposes.

Done at Ljubljana on 25 March 2013.

For the Agency:


Alberto Pototschnig
Director



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